

SENATE BILL 3140  
By Dixon

AN ACT to amend Tennessee Code Annotated, Title 71, relative to the TennCare maximum allowable cost program for pharmacy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

Section 71-5-199. The bureau of TennCare shall be required either directly or indirectly through its designated agent to:

(1) Make available the TennCare maximum allowable cost list by generic drug name, including any strength, dosage form, or delivery system, to all pharmacy providers participating in any program providing pharmacy benefits to TennCare recipients.

(2) Provide notice of the assignment of a new maximum allowable cost price to any generic drug, including any strength, dosage form, or delivery system; the deletion of any generic drug, including any strength, dosage form, or delivery system; or change in the maximum allowable cost price of any generic drug, including any strength, dosage form, or delivery system on the maximum allowable cost list. The notice regarding the assignment of a maximum allowable cost price to any generic drug, including any strength, dosage form, or delivery system or decrease in price of any generic drug included on the maximum

allowable cost list must be provided a minimum of thirty (30) days in advance of implementation of the change.

(3) Before a maximum allowable cost price is assigned to any generic drug including any strength, dosage form, or delivery system, a determination must be made by the bureau of TennCare or an agent acting on behalf of the bureau that the generic drug is readily available in Tennessee from at least two (2) sources at or below the maximum allowable cost price. The information regarding source of product must be made available to all participating pharmacy providers.

(4) Before a maximum allowable cost price can be reduced on any generic drug, including any strength, dosage form or delivery system, already on the maximum allowable cost list a determination must be made by the bureau of TennCare or an agent acting on behalf of the bureau that the generic product is readily available in Tennessee from at least two (2) sources at or below the maximum allowable cost price. The information regarding source of product must be made available to all participating pharmacy providers.

(5) The bureau of TennCare shall establish a mechanism for any pharmacy provider to appeal a maximum allowable cost price. Should a determination be made that the provider does not have access to a product at the maximum allowable cost price, the bureau of TennCare must adjust the maximum allowable cost price and effective date retroactive to the date of service for the prescription or prescriptions in question. The pharmacy provider will be allowed to rebill the prescription or prescriptions for the maximum allowable cost items in question.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.